The obligation to migrate: the doctrine of *hijra* in Islamic law

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Chapter two

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Introduction

On 22 March 1987 three young men approached Allama Ihsan Ilahi Zaheer.[1] They wanted to discuss with him the meaning of a Qur'anic verse about *hijra*,[2] and argued that the situation in Pakistan was worsening. They specifically argued that the Family Laws Ordinance governed the personal lives of Muslims instead of *Shari'a* law,[3] so that the political environment was not conducive to the practice and propagation of Islam. The youths argued that under these circumstances, according to the Qur'anic verse, there were only two options available to Pakistani Muslims: either to declare Pakistan *dar al-harb* (an enemy territory) and wage *jihad* against it until it is restored to *dar al-Islam*; or to leave Pakistan altogether.

The Allama disagreed with them and explained that they held an extremist view. He emphatically refuted their arguments, but the young men kept arguing and departed unsatisfied. The Allama was very much perturbed and expressed his anxiety over rising extremism among the Muslim youth (Najmi 1987: a). On 23 March, a day later, a bomb exploded at a public meeting which Allama Zaheer was addressing. He received serious injuries and later died of his wounds.

There may not be any connection between the bomb explosion and the three youths, and their extremist views are not typical of Pakistani youth. None the less, I cite the incidents to illustrate that some Muslim youth, albeit extremists, still believe that *hijra* (the physical movement away from unbelief) is an essential expression of Muslim identity. Similar trends are apparent in other parts of the Muslim world: for example, *Jama'at al-Muslimin* (The League of Muslims) in Egypt were nicknamed by their opponents *Jama'at al-Takfir wa-l-Hijra* (The Society of Excommunication and Emigration) because of their emphasis on *hijra* (Kepel 1985: 77).

This chapter traces how the doctrine of *hijra* took shape. Any generalisation about the historical development of this doctrine is difficult because no systematic studies of it exist. Moreover, although references to *hijra* are quite frequent in the *fatawa* literature, which consists of responses to specific questions, they are scattered throughout the regular books of Islamic law rather than grouped together under the heading of emigration.

In view of these difficulties I propose first to present an account of *context*, describing the particular events in the history of Islam which gave rise to thinking on *hijra*. Next, I deal with *doctrinal foundations* – i.e. the written texts on which doctrinal discussions about *hijra* are based. Finally, I consider *challenges and responses* to the doctrine occasioned by historical developments that have encouraged the doctrine's reinterpretation or reconstruction by Muslim jurists. These developments include the revolt of the Khawarij (AD 657),[4] the occupation by non-Muslims of Muslim lands and western colonialism, Muslim migration to non-Muslim countries, and the rise of Muslim nation-states.

After an analysis of the period of civil wars (the first *fitna*, AD 656–61, and the second *fitna*, AD 683–92), this chapter discusses developments in Indo-Pakistani and Nigerian Muslim societies, two Muslim societies with which the present writer has been professionally concerned. Moreover, this choice provides an opportunity to study the formulation and development of the doctrine of *hijra* in two different legal contexts and interpretive frameworks – Hanafi in the case of Pakistan and Maliki in the case of Nigeria.

Context

Hijra, an Arabic term which literally means "to abandon", "to break ties with someone" (such as a bond of kinship or other personal association), or "to migrate" (Watt 1971: 366), refers primarily to the Prophet Muhammad's migration from Mecca to Medina in AD 622. It is also discussed with reference to the migration of a group of Muslims from Mecca to Abyssinia in AD 615–22. Although the *hijra* to Abyssinia was voluntary and limited in scope, the *hijra* to Medina was obligatory and involved almost the entire Muslim community. No Muslim was supposed to stay behind in Mecca. Exemption was allowed only to the "weak" – women, children, and the sick – and those who could not afford to migrate. Staying behind in Mecca was also allowed after the pact of Hudaybiyya (AD 628–30). While there was no pact between the king of Abyssinia and Muslims, the migration to Medina was preceded by pacts (*bay'at al-harb/hijra*, the pact of war or

emigration) between the Prophet and the people of Medina who swore allegiance to protect Muslims and to wage *jihad* against their enemies (Ibn Hisham 1963: II, 303).

A significant fact in the events of the *hijra* to Abyssinia in AD 615–22 was that women's participation in migration was equally prominent. The two group migrations to Abyssinia were family migrations, including both women and children. The migration to Medina was preceded by two pacts concluded in AD 620 and AD 621 between Muslims of Mecca and Medina. As already mentioned, the second pact was called "the pact of war". The first was named "the pact of women" not only because women took part in this pact, but also because the first person to swear allegiance to this pact was a woman named 'Afra' (Ibn Hisham 1963: II, 293). The Qur'an refers to this pact in 60: 12 (*sura* 60, verse 12).[5]

The second pact was a pact of protection and war and included among its signatories Umm 'Amara and Umm Mani', who participated in it along with men. There are stories of families moving together during the actual migration from Mecca to Medina (Ibn Hisham 1963: II, 319–20). The first person to migrate was Abu Salma, whom the Meccans did not allow to migrate with his family. His wife later travelled alone to join him. The second migrant, 'Amir b. Rabi'a, succeeded in migrating to Medina along with his wife (Ibn Hisham 1963: II, 321–4).

After the migration all ties, including "blood" relationships, were broken with both non-Muslims and Muslims who refused to migrate. Instead, a new bond of brotherhood (*mu'akhat*) between *muhajirs* (migrants) and *ansars* (inhabitants of Medina – generally supporters or local hosts) was established, which entitled them even to inherit from one another (al-Tabari 1958: 199). *Hijra* thus meant to abandon one's property and relations in order to support the nascent community of Muslims in Medina. Refusal to perform *hijra* meant to weaken the Muslim cause and to lend support (*wala'* or *muwalat*) to their enemies. Hence in early Islam, non-migrants were not allowed to inherit from Muslims in Medina, not were they entitled to any share in the spoils of war (*ghanima*). The right of inheritance between blood relations among Muslims was later restored, although non-Muslim relations were still disallowed from inheritance (Qur'an, 8: 75).

Doctrinal foundations

The textual sources, the Qur'an and *hadith* (pl. *ahadith*; texts relating to the sayings of the Prophet), abound with references to the events of the original *hijra* and to injunctions given in its context.

The word *hijra* has been used in the Qur'an to mean "to reject" (23: 69), "to shun" (74: 5), "to depart" (19: 46) and "to banish" (4: 34). The shared meaning in all these usages may be deduced to be a distancing – physical or otherwise – usually from evil and disbelief. The derivative forms *hajara* (59: 9; 2: 218; 3: 195) and *muhajir* (9: 100, 117; 33: 6; 59: 8; 60: 10; 8: 72) mean "to migrate". Most verses employing the derivative form *hajaru* ("they migrated") are often paired with *jahadu* ("they waged war") and thus imply a close association of *hijra* with *jihad*.

It is not possible here to survey the implications of all the Qur'anic passages. For the purpose of our discussion we refer only to the two verses most often cited in debates concerning *hijra*:

> Those who believed and left their homes [*hajaru*] and strove [*jahadu*] with their wealth and their lives for the cause of Allah, and those who took them in and helped them [*nasaru*], these are protecting friends of one another. And those who believed but did not leave their homes, you have no bond [*walaya*] with them till they leave their homes, but, if they seek help from you in the matter of religion, then it is your duty to help them except against a people with whom you have a treaty [*mithaq*].
>
> (Qur'an, 8: 72)

> Lo! as for those whom the angels take [in death] while they wrong [*zalimi*] themselves, the angels will ask: "In what were ye engaged?" They will say: "We were oppressed [*mustad'afin*] in the land". [The angels] will say: "Was not Allah's earth spacious that you could have migrated therein?" As for such, their habitation will be hell, an evil journey's end. Except the feeble [*mustad'afin*] among men, and the women and the children, who are unable to devise a plan and are not shown a way. As for such, it may be that Allah will pardon them – Who so migrateth for the cause of Allah will find much refuge and abundance [of bounties] in the earth.
>
> (Qur'an, 4: 97–100)

From the Qur'anic texts the following significant points about *hijra* can be inferred: (1) It was an obligation of physical movement towards self-definition in the nascent Muslim society. Refusal to migrate meant exclusion from the society; (2) *hijra* was closely associated with *jihad*; and (3) *hijra* established a bond of relationship among Muslims, particularly with the *ansar*.

Among several *hadiths* on the subject of *hijra*, the following offers parallels to the famous five pillars of Islam:

I convey the following five commandments given me by God: attention (*sam'*), obedience (*ta'a*), migration (*hijra*), struggle (*jihad*), and organisation (*jama'a*).

(Ibn Hanbal, n.d.: 130)

There are numerous *hadiths* prescribing *hijra* as an obligation. However, the *hadith* literature adds a new dimension to the Qur'anic injunction. It also refers to situations where *hijra* is no longer obligatory. For example, the Prophet is reported to have said: *la hijrata ba'd al-fathi*, "no migration was required after the conquest" (al-Bukhari 1971: 190). None the less, there are *hadith* texts according to which *hijra* continues to be an obligation (Abu Da'ud 1933: 234).

Abu Sulayman Hamid b. Muhammad Khattabi al-Busti (AD 931—96/8), a scholar of *hadith*, reconciled this difference of opinion and argued that *hijra* was actually meant to support and strengthen *dar al-Islam* in its nascent days. After the conquests *dar al-Islam* was so strong and established that migration was no longer required. The *hijra* would be required again only and whenever the conditions so demanded (Ibn Hajar 1959: VI, 378).

Ibn Khaldun (AD 1332—1406) explained these texts by saying that *hijra* meant migration to join the Prophet Muhammad. *Hijra* might have continued to be an obligation after the conquest of Mecca, but it was definitely not required after the death of the Prophet (Ibn Khaldun 1958: I, 256).

Abu'l-Fadl Ahmad b. 'Ali Ibn Hajar [al-'Asqalani] (d. AD 1449), a later *hadith* scholar, analysed in detail this debate and showed that a number of the companions of the Prophet, including Ibn 'Abbas (d. AD 687), and his contemporaries Ta'us, Mujashi', Ibn Jurayj, 'Ata' and 'A'isha, perceived *hijra* only as migration from Mecca to Medina. Hence, after Mecca was conquered no *hijra* was required (Ibn Hajar 1959: VI, 378).

Thus, even as early as the formative period, we see a refinement in the formulation of the doctrine. During AD 622—8, the *hijra* from Mecca to Medina was obligatory in terms of expressing one's Muslim identity. Migration also meant weakening Mecca and strengthening Medina. Only persons unable to migrate (*al-mustad'afin*) were allowed to stay in Mecca. The situation changed in AD 630 when Mecca joined *dar al-Islam*. After AD 630, the statement that *hijra* was no longer required from Mecca raised the question of whether *hijra* only meant migration from Mecca to Medina. Could it be generalised to state that migration from the outside to *dar al-Islam* was obligatory?

The answer is not simple, because the *hijra* to Abyssinia was not

to *dar al-Islam*. The Hudaybiyya pact allowed Muslims to stay in Mecca, and the Prophet did not require the bedouin to migrate to Medina. A general rule was therefore derived that even after the conquest of Mecca, such situations as the following could make *hijra* relevant again: (1) *dar al-Islam* turns into *dar al-kufr*; or (2) a resident of a territory outside *dar al-Islam* embraces Islam.

Is *hijra* obligatory in these situations? An answer to this question also involves other issues, such as (i) how *dar al-Islam* turns into *dar al-kufr*, and (ii) the legal status of a Muslim who does not migrate. Indeed, these and other questions helped refine the doctrine. It should be emphasised that even the early textual formulations of doctrine are closely related to the actual political and social contexts. Subsequent interpretations similarly demonstrate a dynamic interaction between text and social, economic, and political conditions.

Challenges and responses

The revolt of the Khawarij

Civil wars among Muslims erupted quite early during the period of the first caliphs (AD 632–61). The rebels defined their position within the Islamic framework and hence had to justify their war with opposing Muslim groups – most often the ruling groups in the centre – in terms of *jihad*. It was therefore necessary to strengthen their camp by asking their followers to migrate from enemy territories.

Foremost among these dissenters were the Khawarij,[6] who considered the commission of major sins as *kufr* (unbelief). They rebelled against the Caliph 'Ali and subsequently against the Umayyids (AD 661–750). Their support was largely among the nomads. The Khawarij were probably the first Muslim group to define political dissent in theological terms, thus generating scholarly controversies on different issues.

In order to justify their *jihad* and *hijra*, the Khawarij raised the question of the original status of territory. According to them, all territories were *dar al-kufr* until they were brought into the fold of Islam. A territory could turn again into *dar al-kufr* if its rulers denied the sovereignty of Allah, or committed a major sin, whereby they became *kafirs*. In these circumstances, *hijra* from such a territory and *jihad* against it become obligatory. The Khawarij, Azariqa,[7] and Sufriyya[8] all held these general views. Yet, whereas most of the Khawarij declared their opponents *mushriks* (polytheists), the Ibadiyya[9] adopted a more moderate view. They

believed that their enemies among the people who prayed in the same direction were *kafirs*, and that marriage and inheritance with them were allowed.

The Ibadiyya did not term all the territories outside their own camps as *dar al-kufr*, but the camp of the sultan was certainly so. According to the Ibadiyya, inability to migrate was not an excuse but a condition that one should strive to remove. The 'Awniyya[10] explained that when the ruler committed *kufr*, his subjects also became unbelievers. They believed that *hijra* and *jihad* were inter-related, and broke ties with those who migrated in order to avoid *jihad* (al-Ash'ari 1950: I, 162–79; al-Shahristani 1899: I, 170–84).

The responses

The views of the Mu'tazila oscillated between the positions of the Khawarij and the Ibadiyya. Jubba'i (d. AD 916), a Mu'tazili leader, expounded the view that as long as it was possible to stay in a terri-tory without being forced to agree or to commit acts of unbelief, the territory was *dar al-iman* (the land of faith). However, according to him, this condition did not prevail in Baghdad (al-Ash'ari 1950: II, 137).

The Shi'a, who opposed the Umayyid and 'Abbasid (AD 750–1258) regimes, did not take the extreme position of the Khawarij. Their position varied according to circumstances. Some Shi'a took a middle position and defined the territory as *dar al-hudna* (the land of peace), from which migration was not obligatory. Others, particularly the Zaydis, called it *dar al-kufr* (the land of unbelief) (al-Ash'ari 1950: II, 137).

The majority of the Muslims who favoured the status quo dis-agreed with these extreme views of *kufr* and *hijra*. They took a moderate position and referred to a *hadith* which explained the various levels of *iman*. The *hadith* recommended that one should strive to remove evil with hand or tongue depending upon his ability. If one is unable to do either, one should at least distance oneself from evil in one's heart. This, however, was the weakest level of *iman* (Muslim 1954: I, 69). The majority view was that the higher levels called for *jihad* and that *jihad* was a *fard kifaya* (a collective duty) not required of each and every Muslim, and not to be undertaken individually. *Hijra*, according to this majority view, was a *jihad*-related obligation. The only *hijra* that could be performed individually was withdrawal in the heart. Such interior-isation of *hijra* in the esoteric sense was popularised by the Sufis.

Abu'l-Qasim al-Qushayri (d. AD 1074) defined *hijra* as "extracting oneself from the desires of the soul to the shade of His

closeness'' (al-Qushayri n.d.: I, 51). He explained that complete *hijra* meant ''abandoning the soul by not attending to its desires and then migrating from the land of rights to the land of submission to God's will'' (al-Qushayri n.d.: II, 335).

The Sufi commentators of the Qur'an usually explain that the obligation of physical migration was repealed. The only *hijra* required was spiritual. Maybudi (d. AD 1125) pointed out that there were three types of *hijra*: (1) that of *ahl al-dunya*, migration of ''people of the world'' for the purpose of trade; (2) that of the *zahidin*, the ascetics' migration towards the hereafter by performing all religious rituals and spiritual contemplations; and (3) that of the *'arifin*, the mystics' migration from the veils of self to the heart, and from the heart to the soul, and, ultimately, to the Beloved (Maybudi AH 1338: II, 662). The Sufi Najm al-Din Kubra (d. AD 1225) defined *hijra* as migration from the land of human beings to the presence of Allah (al-Bursawi 1911: II, 272).

The Sufi interiorisation of the doctrine was a reaction to adverse social and political conditions. They faced a stark choice: either support an unjust ruling group or, like the Khawarij, revolt against it. In these circumstances, the Sufis took the position of withdrawal. The jurists also did not collectively adopt the extreme position. They perceived that the supremacy of the *shari'a* could be maintained only if there was less interference by the rulers in the interpretation of law. They were not in favour of the *shari'a* being interpreted by governmental institutions.

This view of law developing independently of government started to take shape during the Umayyid period and crystallised during the early 'Abbasid period when attempts were made by the caliphs to take the right of legislation into their own hands (Schacht 1966: 55). The jurists, however, did not want to challenge the political supremacy of the rulers because that would create disunity and political chaos. Hence, they generally supported the political status quo and favoured allegiance to rulers as long as they did not interfere in their right to interpret the *shari'a*.

Jurists therefore defined *dar al-kufr* as a vague and amorphous category. Usually all the territories bordering *dar al-Islam* were *dar al-kufr*, against which the rulers were urged to wage *jihad* at least once a year (Khalil 1916: 73). Such a definition, however, did not operate during the Prophet's period.

The bedouin around Medina and Mecca were never obliged to migrate to Medina. Instead of the *bay'at al-hijra* (pledge to migrate), they pledged to join *jihad* against the unbelievers. The Muslim population in this early period was divided into three categories: *muhajir*, *ansar* and *a'rab* (bedouin) (al-Tabari 1958: 14—78).

In those days the *a'rab* and *muhajir* were opposite terms. The *a'rab* were allowed a share in the spoils of war but not in other revenues. Donner (1981: 79) explains that early Muslims adopted *hijra* as a policy of "sedentarisation" in order to gain dominance by sub-ordinating nomadic groups to a sedentary elite. It is difficult to say if there was a uniform policy for all the nomads, but we do know that it was during the Umayyid period, largely because the Khawarij were supported by nomads, that nomadism was con-sidered the equivalent of returning to the pre-Islamic order. In view of the civil wars during this period, settlement was naturally stressed: the nomads, not under direct control of the centre, could provide refuge and protection to rebels. This Umayyid policy differed from preceding and later policies towards nomadism.[11]

Muhammad Idris al-Shafi'i (d. AD 820), the founder of the Shafi'i school of law, particularly referred to the case of the bedouin to argue that *hijra* was not obligatory for all because the Prophet permitted the bedouin not to migrate if they did not so desire. Shafi'i argued further that *hijra* became an obligation only after the declaration of *jihad*, and then only upon those who had the ability to do so (al-Shafi'i 1903: IV, 84). According to al-Shafi'i, therefore, a Muslim could stay in *dar al-kufr*, even in *dar al-harb*, as long as he was free to practise his religion.

The Maliki formulation and jihadist challenge

The majority of the Maliki jurists agreed with Shafi'i that *hijra* was not an obligation after Mecca was conquered. Al-Maziri (d. AD 1141) argued that staying behind in *dar al-kufr* with a legitimate excuse generally, or for the propagation of Islam specifically, was allowed and did not affect the rights of a Muslim. Even the judge-ments by a *qadi* appointed by a non-Muslim were valid and executable (Wansharisi 1981: I, 100). Abu'l Hasan al-Manufi al-Maliki (d. AD 1531) similarly held that the *hijra* was not required after Hudaybiyya (al-Maliki n.d.: II, 5). Ibn al-'Arabi (d. AD 1148) argued for the continuity of obligation but subjected *hijra* to a detailed analysis none the less. He argued that there were six situations of migration. *Hijra* was obligatory from territories of unbelief, heresy and injustice, or where unlawfulness prevails. *Hijra* was allowed but not obligatory from lands of physical persecution, lands of disease, and lands of financial insecurity (Ibn al-'Arabi 1972: I, 486).

The Jihadist movement in the eighteenth century criticised the popular definition of *dar al-Islam* as a country ruled by Muslims. Shehu 'Uthman dan Fodio (AD 1754–1817) was the foremost among

those leaders who developed a detailed restatement of this doctrine. His formulation is discussed elsewhere in detail (Masud 1986), but can be summarised as it relates to the present argument.

Shehu's restatement of the doctrine of *hijra* was prompted by the actual historical circumstances in which he was forced to fight against the syncretism, injustice, and corruption of the Hebe Muslim rulers. He had to justify his *jihad* and migration against the criticism of Muslim jurists who supported the ruling regimes and who challenged Shehu's *jihad* against Muslim rulers.

Shehu's restatement rested on his argument from the original tradition of the Qur'an, *hadith*, and Maliki *fiqh*. The main points of his doctrine were the continuity of the obligation of migration, the close relationship of *jihad* with *hijra*, and the need for a redefinition of *dar al-Islam*.

Shehu agreed with the Khawarij on most questions of *hijra*, but he disagreed with their considering the commission of a major sin as *kufr*. He did not, however, accept the rulers' nominal adherence to Islam. In fact, he defined *kufr* as, first, their observance of pagan practices, and, second, their support of pagans against Muslims. Shehu succeeded in establishing a *dar al-Islam* in Nigeria that continued to flourish until the British occupied it in 1903.

Shehu's formulation had a far-reaching impact on other *jihadist* movements in West Africa. For example, his doctrine was cited as authority by the *amir* of Massina in his debate with Shaykh 'Umar al-Futi in 1855–64 (Willis 1979: 179). His doctrine also influenced the formulation of doctrines by Amir 'Abd al-Qadir in Algeria, Ma' al-'Aynayn al-Qalqami in Mauritania and Muhammad 'Abdullah Hasan in Somalia (Martin 1976: 33), and it continued to influence the Nigerian response to British hegemony.

Non-Muslim occupation and colonial rule

The questions of *dar al-Islam* and *hijra* arose again after the British occupation of India and Nigeria. Attahiru, the last sultan of the Sokoto Caliphate, resorted to Shehu's formulation of *hijra* when faced with the British invasion from 1900 onward. When Kano was also taken, Attahiru chose to perform *hijra* in order to rally his forces against the British. He called his followers to *hijra* and, in the words of a British journalist:

> each time he passed through the people were told to follow him to Mecca, otherwise they would become Kaffiri and as a result half of the population of every town tied up their bundles and joined in his train.
>
> (cited in Clarke 1982: 195)

Attahiru finally encamped at Burmi where he and his followers valiantly fought their battle against the British. Attahiru was killed and thus the British conquest of Nigeria was complete by 1903. After Attahiru's death, Maliki scholars returned to the formulation that *hijra* was not required. They accepted British rule, arguing that so long as Muslims had freedom to practise their religious duties, the land continued to be *dar al-Islam* (Savi 1971: II, 291).

The situation was different in India, where the Hanafi formulation prevailed. The Hanafi formulation of the doctrine of *hijra* differs from the Maliki formulation on two points. First, Hanafis argue that it is not correct to claim that succession among migrants to Medina in AD 622 was practised on the basis of *hijra*, nor that this Qur'anic injunction was abrogated later in order to restore succession on the basis of "blood" affinity. They maintain that succession was always based on "blood" relationships. Migration was important only to the extent that those "blood" relations who did not migrate did not qualify for succession. Brotherhood between *muhajirs* and *ansars* had economic advantages, but it was not the only ground for inheritance (Jassas 1916: II, 241).

Second, Hanafis stress the territorial factor of *dar al-Islam*. Their disagreement with claims of succession on the basis of migration is in fact also based on consideration of territory. A Muslim who did not migrate to *dar al-Islam* was disallowed from inheriting property there because it would mean transfer of property from *dar al-Islam* to *dar al-harb*. Similarly, even the spoils of war were not granted legal title until they were actually transferred to *dar al-Islam*.

Thus Hanafi doctrine is largely based on ideas of territory. A person is treated according to the territory where he is ('Alamgiri 1932: III, 423). Consequently, a Muslim who does not migrate from *dar al-harb*, although a Muslim, is to be governed by the rules of *dar al-harb*. This is why the Hanafis allow transactions by Muslims in *dar al-harb* that are not allowed in *dar al-Islam*.

Due to these considerations, according to Hanafis, *dar al-Islam* changes into *dar al-harb* if the following three conditions obtain: (1) the laws of disbelievers gain supremacy and no law of Islam can be executed; (2) the Muslim and non-Muslim populations are no longer governed by the original pacts that they enjoyed before the non-Muslim occupation; and (3) the land in question is adjacent to the territory of *dar al-harb* such that there is no land of Islam between them ('Alamgiri 1932: III, 415). Analysing these views in detail, Wahba al-Zuhayli, a modern Muslim jurist, concludes that Hanafis believe in the application of law on a territorial basis, while Malikis and others apply it on a personal basis (al-Zuhayli 1962[?]: 175).

Shah 'Abd al-'Aziz (1904: 16—17) was asked frequently whether British India was *dar al-harb*. He said that it was, but disallowed all of the implications of his declaration. India was *dar al-harb* because the laws of the *shari'a* were not supreme. He did not, however, allow the usury transactions that Hanafis allow in *dar al-harb*. He dismissed as political expediences the freedom allowed by the British to observe Friday services, religious feasts, and the calls to prayer, and the permission to slaughter cows and observe other personal laws. When Shah 'Abd al-'Aziz was asked why he did not call for *hijra* from *dar al-harb*, he replied that the *hijra* required, as a necessary condition, possession of the means to migrate; it was allowed only if the means were available (al-Qannuji 1985: 238). Yet Sayyid Ahmad Barelwi organised *hijra* and *jihad* to restore India's status of *dar al-Islam*. According to William Hunter, the 1857 Muslim revolt against the British was a continuation of Sayyid Ahmad's movement of *hijra* (Hunter 1964: 3).

However, the Hanafi majority view has been that if Friday and the religious holidays can be observed, the land is *dar al-Islam*. The non-Muslim rulers can appoint Muslim governors and judges whose orders would be Islamically valid (Isma'il 1985: 231). Other scholars – such as Karamat 'Ali Jawnpuri, Sayyid Ahmad Khan, and Nadhir Husayn Muhaddith al-Dihlawi – similarly termed British India *dar al-Islam*.

An important event was the 1920 *hijra* from India to Afghanistan after the declaration of India as *dar al-harb*. From a recent analysis of this movement (Qureshi 1979), it is clear that the movement did not possess a traditional doctrinal basis. It was based on the *fatawa* of Mawlana 'Abd al-Bari Farangi Mahli (1828) and Shah 'Abd al-'Aziz (1824). As I have explained, Shah 'Abd al-'Aziz did not call for *hijra*, and 'Abd al-Bari maintained that he did not consider *hijra* mandatory. Scholars belonging to the Deoband and Barelwi schools – such as Ashraf 'Ali Thanawi, 'Abdur Ra'uf Danapuri, Ahmad Riza Khan Barelwi, and Pir Mihr 'Ali Shah – advocated the refrain from *hijra* (Mahmud 1986: 72, 258—69). It was mainly Abu'l Kalam Azad's writings that provided the theoretical and intellectual basis for this movement (Azad n.d.: 31—2). His was in fact a restatement of the doctrine similar to that made by Shehu 'Uthman dan Fodio.

Abu'l Kalam Azad was joined by Muhammad and Shawkat 'Ali, leaders of the Khilafat movement, and many other public leaders. Thousands of Muslims, in fact, responded to the call for *hijra* and many thousands actually began their journey of migration to Afghanistan. Qureshi points out that the Afghani elite also encouraged the movement but only for their own political ends

(Qureshi 1979: 45). The result proved disastrous for Muslims. Afghanistan did not prove to be *dar al-Islam* for these *muhajirin* who had volunteered to move there after disposing of all their possessions. Hundreds died on the way to and back from Afghanistan; others returned to India destitute and frustrated.

It is clear that the *hijra* movement of 1920 was not supported by the established *'ulama'*, who had traditional training. The movement, on the contrary, was led and supported by scholars who were not traditionally trained. In fact, they were scholars like Abu'l Kalam Azad whom the traditional men of learning never recognised as religious scholars (Mushir 1974: 25). Other scholars in the movement came from the Ahl al-Hadith school, which refused adherence to the traditional four Muslim legal schools. Further, the leaders of the movement came from the western-educated class, such as the Ali brothers. It is important to note that whereas the traditionally trained *'ulama'*, whether in Nigeria, India, Pakistan, or Indonesia (Van Dijk 1981), generally favoured the status quo, self-trained scholars led the new Islamic political movements.

It seems that the people who raised the question of *dar al-harb* and asked opinions of scholars like Shah 'Abd al-'Aziz were probably interested in this issue in order to avail themselves of the exemptions from the application of Islamic law that Hanafis allow to Muslims in *dar al-harb*. This is probably why the questions referred mainly to money transactions based on *riba* (usury). Muslims were discouraged from military *jihad* against the British by the military superiority of the colonial powers, Muslim defeat at their hands in Plessey (1757) and Burmi (1903), and the subsequent ruthless repression. The only form of *jihad* available to them was *tark mawalat* (withdrawal or non-cooperation). *Jihad* and *hijra* both required means which the Muslims lacked. Moreover, the general British policy of non-interference in religious matters suited the conception of *dar al-Islam* of traditional *'ulama'*.

During the late nineteenth and twentieth century, the spread of education, growth of political consciousness, and increase in the means of communication made it easier for Muslim religious leaders to learn more about political conditions in developed countries. They compared these conditions with the restrictions prevalent in colonised territories, so that dissatisfaction grew with the status quo. At the same time, leadership came not from traditional scholars and landowners, but from Muslims who had been educated in the west and from reformers.

Traditional scholars and landowners favoured the status quo, however, and the new leadership therefore looked to the masses for support against the British. The most powerful medium against the

colonial power was religion, which could eliminate fear and inspire commitment. Religion was not the only factor that could unite the masses against the colonial rulers, but it was the weakest point of the colonial system. The new leadership, although not deeply entrenched in the traditional religious sciences, revived and invoked such religious issues as *hijra* as a rallying point for political advantage.

Hijra to non-Muslim countries

A new dimension of *hijra* emerged during the nineteenth century. For reasons of higher education, training, and employment, Muslims travelled to non-Muslim lands and stayed there for longer periods. In some cases they migrated in order to settle. This was altogether a new type of *hijra*; its motives and objectives were different.

As mentioned earlier, scholars like Ibn al-'Arabi permitted *hijra* from a land of disease and financial insecurity to a better place (Ibn al-'Arabi 1972: I, 486), and based their argument on Qur'anic verse (4: 100). Others allowed *hijra* to non-Muslim lands for the purpose of propagation of Islam. They based their argument on the legal view that Muslims must remain in *dar al-kufr* in order to propagate its reconversion. An illustration is the discussion contained in a recent treatise, *Hukm al-iqama bi-bilad kufr wa-bayan wujubiha fi-ba'd al-ahwal* [*Legal View of Staying in the Lands of Unbelief and the Explanation of Why It Has Been Obligatory in Certain Circumstances*], relating the question of whether residence in non-Muslim countries can be said to be obligatory.[12] The author states that in 1985 some Algerian students met him in Mecca and asked whether staying in European countries and America was allowed. The students claimed that the position of scholars was not clear, and they particularly referred to a recent *fatwa* which prohibited such a stay ('Abd al-'Aziz al-Siddiq 1985: 6).

The author of the treatise discusses the problem at length and concludes that remaining in Europe and America for the purposes of education and employment is not only allowed but is often obligatory. His main arguments include the following: education and training in modern science and technology are obligatory for the progress of Muslim societies, since otherwise they would remain dependent on developed countries ('Abd al-'Aziz al-Siddiq 1985: 12–13); the Qur'an and *hadith* enjoin Muslims to seek knowledge and livelihood all over the globe; and the reason for migration from *dar al-kufr* and for the prohibition from entering it, as given in Islamic law, is the apprehension that the person, property, and/or

religion of a Muslim are not safe in these territories, yet today there is no such fear. Indeed, the conditions for the practice and propagation of one's religion are better in Europe and America than in most Muslim countries ('Abd al-'Aziz al-Siddiq 1985: 30, 45–50). He argues, finally, that western countries which have made pacts and treaties with Muslim ones are no longer *dar al-kufr* ('Abd al-'Aziz al-Siddiq 1985: 51). The most distinguished scholars of Islamic law in the Middle East – such as Muhammad b. Ahmad Abu Zahra (1898–1974), 'Abd al-Qadir 'Awda (d. AD 1954), and Wahba al-Zuhayli – have offered similar interpretations of the doctrine of *hijra* (Abu Zahra n.d.: 55; 'Awda 1959: I, 275; al-Zuhayli 1962[?]: 149).

Nation states

Muslims re-emerged after independence from colonial rule divided into a number of nation-states. During the colonial period Muslim romanticism visualised the Muslim world as a single, monolithic and sovereign polity. Now there are a large number of Muslim communities without sovereignty. Are they part of the Muslim world? Should the Muslim world regard them as distant enclaves in foreign lands and therefore help them? Or should they be considered permanently situated under non-Muslim jurisdiction?

What should these Muslim communities do? Should they migrate to Muslim countries? Should they continue struggling to achieve liberation and sovereignty? Should their objectives be the achievement of civil and cultural rights within a non-Muslim polity?

It is clear that the emerging Muslim world is not the *dar al-Islam* of medieval times. It consists of nation-states looking after their own national interests. Unlike the situation that prevailed in the medieval *dar al-Islam*, a Muslim cannot freely travel, migrate, or settle in any Muslim country today. Some of these countries are secular; others have reformed religious and personal laws along western lines. The non-Muslim populations in these Muslim countries have been participating equally in the struggle for freedom, independence, and progress, and thus are not conquered people to be forced to accept the status of a protected minority (*dhimmis*). The doctrine of *hijra* consequently faces new challenges.

In early Islamic history, the formulation of the doctrines of *hijra* was interconnected with the definition of *dar al-Islam* and *kufr*. However, the issues posed by the framing of these doctrines varied. In the early period, the question was: from where to where must one migrate? Although this question had a different meaning for dissident political groups, it continued to be asked during the

medieval period about Muslims not living in *dar al-Islam*. For Muslims living within *dar al-Islam* the question was: from where must Muslims not migrate? Whereas in the early period *dar al-kufr* defined *hijra*, in the medieval period *hijra* defined *dar al-Islam*. Any movement of migration from a certain territory meant that it was no longer considered *dar al-Islam* – at least, not by the migrants.

The question of *hijra* became prominent again during the thirteenth century when Christians in the west and Tartars in the east occupied Muslim lands. The question was now posed differently: must one migrate from a territory that once was *dar al-Islam*? Categories between *dar al-Islam* and *dar al-kufr* were developed to answer the question, and these categories proved to be useful during the colonial period between the eighteenth and nineteenth centuries.

With the rise of nation-states and a secular world-view, the definition of *dar al-Islam* has become increasingly problematic. In this context, the definition of *hijra* in terms of movement from *dar al-kufr* becomes irrelevant. One must ask not only *from* where must one migrate, but also *to* where? Several modern scholars (e.g. al-Zuhayli 1962: 159; Abu Zahra n.d.: 55) seem to have redefined *dar al-Islam* and searched for new categories of territory (*dar*) from the point of view of *hijra*.

Dar al-Islam and related *dar* categories are now being defined more frequently with reference to the question: from where does one not need to migrate? Answers to this question have produced categories such as *dar al-'ahd* (the land of pact), *dar al-sulh* (the land of truce), and *dar al-aman* (the land of peace), in which a Muslim's freedom to practise his religion is protected by covenant. It is significant that the frame of reference for this apparently new interpretation is still the early tradition of *hijra*. This particular movement of *hijra* – migration to a non-Muslim land – is alluded to as the Abyssinian model, referring to the earliest *hijra* by Muslims to Abyssinia, a Christian country. It is also justified with reference to the Hudaybiyya model, whereby Muslims were not required to migrate from Mecca – at that time still a non-Muslim land – because of a pact between it and Medina. These interpretations seem appropriate to the world of nation-states because citizens are protected by pacts between them.

Conclusion

This discussion is intended to be exploratory rather than definitive, but several points emerge. First, it should be noted that *hijra*,

which appears as one of the essential obligations in early Islam and is often discussed at length in *hadith*, *tafsir*, *fiqh*, *fatawa*, and Sufi literature, did not earn sufficient prominence in the later classification of *fiqh* or *kalam* subjects to deserve treatment as a subject in itself.

Second there is a distinction, although often blurred, between the Hanafi and other schools in the debates about *hijra*. While the Hanafis tend to define the status of a person living in *dar al-harb* and the transformation of *dar al-Islam* into *dar al-harb* in terms of territory, the other legal schools do not. It can be argued that among the Hanafis there was a trend towards a territorial definition of law, in contradistinction to others who adhered to a personal definition. Other legal schools considered a Muslim living in *dar al-harb* to be still subject to Islamic law, but, in contrast, the Hanafis were not in favour of applying Islamic law to Muslims in enemy territories. This distinction would have developed had it not been for the exemption from the application of certain Islamic laws to non-Muslims living in *dar al-Islam* – an exception that probably grew out of the principle of freedom of religion.

Third, the formulation of the doctrine at various historical junctures shows the discursive nature of intellectual arguments in the Muslim tradition. Jurists constantly go back to texts – often the same ones – interpreting and reinterpreting them in order to justify the opinions shaped by earlier social, economic, and political conditions. The extreme views, which in the case of *hijra* invariably rely on Khawarij interpretations, are taken by political dissenters.

Finally, it should be noted that although one might expect a written text as a frame of reference to prove restrictive on subsequent interpretations, the doctrine of *hijra* has, on the contrary, been quite adaptable to varying political contexts. The same texts have been interpreted to justify widely different views.

The reason for this flexibility lies perhaps in the acceptability of these interpretations more than in the interpretability of the doctrine itself. There is something which we may call a "semantics of expectation" on the part of society. Words acquire new meanings according to these expectations. The shifts of meaning of *hijra* – from movement itself to settlement, from physical movement to spiritual and mental withdrawal, and from movement to Muslim territory to residence in Western countries for the purpose of propagating Islam – are examples of this semantics of expectation.

The calls for the establishment of *dar al-Islam*, sometimes without call for physical *hijra*, have curiously been made not by the traditional scholars, but by a new type of Muslim intellectual,

self-trained and lacking formal education in the traditional schools of jurisprudence. These new intellectuals have either graduated from western-style schools and universities or have been intellectually nourished on western literature. Because of their modern world views, these intellectuals are more acceptable to urban, educated Muslims than their traditional counterparts, who still attract a primarily rural and "superstitious" clientele. These new intellectuals, for the simple reason that they are not hindered by the complexities of traditional legal thought, have the freedom of selecting more eclectically from tradition and justifying their views directly from the Qur'an and *hadith*. They often earn instant popularity because of reference to the "sources", but, since their interpretations do not form a continuity with tradition, their impact is often partial and ephemeral. The new intellectuals are therefore continually compelled to search for dramatic, and often extremist, solutions.

Notes

1 Allama Ihsan Ilahi Zaheer (1940–87), born at Sialkot in a religious family, pursued traditional religious studies at Gujranwala and graduated from Jami'a Salafiyya in Faisalabad in 1960. After completing his studies at Medina University, he returned to Pakistan where he obtained MA degrees in Urdu, Persian, History, and Philosophy from Punjab University and an LL B from Karachi University. From 1966 he was *khatib* of Jami'a Masjid Ahl al-Hadith in Lahore. He edited various religious journals, published his own monthly magazine, *Tarjuman Ahl al-Hadith*, and wrote about fifteen books, most of them in Arabic. Towards the end of his life he became active in politics. He was the Nazim-i-A'la of Jam'iyyat Ahl al-Hadith whose public meeting he was addressing on 23 March 1987, when a bomb exploded and seriously wounded him. He died on 30 March at the Saudi Military Hospital in Riyadh (*Islamic Studies* 1987: 230).

2 The news story does not specify the Qur'anic verse. It only states that the young men referred to the verse in *sura* 4 that bade Prophet Muhammad to migrate. They might be referring to verse 97, which is mentioned in my main discussion.

3 Reforms such as the registration of marriages and restrictions on polygamy were introduced by the Muslim Family Laws Ordinance of 1962, despite severe protests by the *'ulama'*.

4 Dates in this chapter have been adopted from Hodgson (1974).

5 Numbers of the verses of the Qur'an as well as the English translation are from Pickthall (1953).

6 Khawarij: The earliest sect in Islam which rebelled against 'Ali (AD 656–61) because of his compromise with the Umayyids after the Battle of Siffin (AD 657). They revolted and fought against both the Umayyids and the 'Abbasids.

7 A group of Khawarij named after Nafi' b. al-Azraq (d. AD 685).
8 A group of Khawarij named after Zyad b. Asfar whom they followed. They opposed the Azariqa and Ibadiyya and held more moderate views.
9 A group of Khawarij who followed 'Abdullah b. Ibad. They rebelled against Marwan b. Muhammad (d. AD 744), the Umayyad caliph.
10 A group of Khawarij who, according to al-Shahristani, held that when the Imam committed an act of disbelief, his subjects also became disbelievers.
11 It appears that Donner has developed the argument restrospectively and explains the situation in early Islam in the perspective of 'Abd al-'Aziz ibn Sa'ud's (AD 1880–1953) policy to encourage bedouin to effect *hijra* from the nomadic to sedentary life in order to create the *ikhwan*, a para-military force which he used agains the Sharifians of Hijaz. Each settlement was called a *hijra*.
12 This author, 'Abd al-'Aziz b. Muhammad b. al-Siddiq, belongs to a family of scholars in Tangier. I have not been able to find much information on him. An autobiography of his elder brother (b. 1909), 'Abdullah b. al-Siddiq, makes occasional references to him as "my brother, the 'Allama, the Muhaddith" (e.g. 'Abdullah al-Siddiq 1985: 3). 'Abd al-'Aziz is also mentioned as one of his students ('Abdullah al-Siddiq 1985: 8).

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